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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,668	12/12/2001	Hiroshi Kyusojin	09792909-5287	1422
26263	7590	11/01/2005	EXAMINER	
SONNENSCHEIN NATH & ROSENTHAL LLP			FERRIS, DERRICK W	
P.O. BOX 061080			ART UNIT	PAPER NUMBER
WACKER DRIVE STATION, SEARS TOWER				
CHICAGO, IL 60606-1080			2663	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/020,668	KYUSOJIN, HIROSHI	
Examiner	Art Unit		
Derrick W. Ferris	2663		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 March 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,2,4,6-12,14,16 and 17 is/are rejected.

7) Claim(s) 3, 5,13 and 15 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 27 March 2003 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other:

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Avoiding simultaneous transmission requests from two or more flows" or "Transmitting through the use of accumulation capacity of tokens".

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. **Claims 1, 2, 4, 6-12, 14, and 16-17** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,011,798 to *McAlpine*.

As to **claim 1**, the communication apparatus is taught e.g., as NIC 40 as shown e.g., in figure 1. A timing deciding means for determining transmission timing of packets

of said bandwidth-guaranteed flow is taught as part of transmit scheduler 10. A packet transmitting means is taught as part of transmit controller 70. In particular, a NIC 40 multiplexes incoming and output data streams where the output packets can be either fixed or variable length, see e.g., column 4, lines 1-45. As such, two types of traffic is supported, a rate controller used to schedule “bandwidth-guaranteed flows” and a best effort scheduler used to schedule best effort traffic. The rate scheduler calculates a target time for transmission of data for various data streams, see e.g., column 4, lines 45-46. Thus the rate scheduler comprises time deciding means. Transmission of packets are further scheduled based on a Pachinko machine, see e.g., figure 3, which uses tokens. In particular, the scheduler stores tokens in accordance with their calculated data element transmission times, see e.g., column 5, lines 23-40. Thus the reference further teaches transmitting leading packet data in a packet queue according to accumulation capacity tokens, at a timing set by said timing decided means (i.e., the tokens are stored/accumulated in bins based on a timing which is defined by at least a timing window).

As to **claim 2**, packet data is transmitted based on the time schedule which in-turn is determined by the token bins where the bins exceed zero.

As to **claim 4**, both service types are supported, see rejection for claim 1.

As to **claim 6**, packets are queued and scheduled based on service type.

As to **claim 7**, the timing means is part of the time used to determine the time window which is determined based on a reference clock, see e.g., column 8, lines 51-65.

As to **claim 8**, packets are queued and scheduled based on service type.

As to **claims 9-10**, both types of packets are supported, see rejection for claim 1.

As to **claim 11**, see similar rejection to claim 1.

As to **claim 12**, see similar rejection to claim 2.

As to **claim 14**, see similar rejection to claim 4.

As to **claim 16**, see similar rejection to claim 6.

As to **claim 17**, see similar rejection to claim 8.

Allowable Subject Matter

4. **Claims 3, 5, 13, and 15** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571)272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick W. Ferris
Examiner
Art Unit 2663

DWF

DERRICK FERRIS
PATENT EXAMINER

4/30/68